

The Five Lawsuits

“The NAACP Strategy”

Music

Narrator:

The National Association for the Advancement of Colored People was founded in 1909. Its members worked for decades to protect African American civil rights in a climate of strong anti-black discrimination and segregation.

Rev. J. Samuel Williams Jr., minister and activist:

The NAACP was the only organization that we had upon which we could place reliance.

Roger Wilkins Esq., Clarence J. Robinson Professor of History and American Culture, George Mason University:

The NAACP was the spearhead of the struggle.

Joseph A. De Laine Jr., son of Rev. J. A. De Laine:

Most of it was help. How do you get, you need a lawyer, how do you get a lawyer?

Narrator:

The NAACP not only provided lawyers to fight acts of discrimination, but also used court cases as a way to change the laws, which supported segregation in the first place.

Badi Foster, president, Phelps-Stokes Fund:

They would strategize, strategize, strategize in trying to find the right kind of case, the material, the evidence, the strategy, etc.

Roger Wilkins Esq.:

Meanwhile, Charles Hamilton Houston, a brilliant black man who had been brilliantly educated, had been persuaded to become dean of the Howard Law School. And so Houston went and he turned the Howard Law School into a West Point for civil rights lawyers.

Judge Robert L. Carter, NAACP attorney:

And his thesis was the way you would attack and eliminate segregation, was in the graduate schools, professional schools, all of those schools, and the colleges.

Oliver Hill, NAACP attorney:

Challenge the situation at its weakest point and the weakest point was equal. Everything was segregated but nothing was equal.

Professor Jack Greenberg:

They ultimately won a case against the University of Texas Law School, in which the Court held not only could they not segregate, but that segregation itself interfered with the ability to learn. And that was the blueprint for bringing the *Brown* case.

Narrator:

In 1938, Thurgood Marshall, Houston's protégé, took over legal leadership at the NAACP.

Roger Wilkins Esq.:

Thurgood was a wonderful strategist and he was a great brain-picker.

Evelyn Fox Cunningham, journalist, The Pittsburgh Courier:

His awareness of the battle, the intensity of it and the hatred involved, was keen. Very, very keen.

Narrator:

He adopted a bold new strategy. No longer would the NAACP seek equalization. Instead, they would attack segregation head-on. Thurgood Marshall and his team worked non-stop to develop new lawsuits. They found five test cases from different towns around the country where ordinary students and parents had agreed to sue for desegregation often at great personal risk: Washington, D.C.; Wilmington, Delaware; Farmville, Virginia; Summerton, South Carolina; and Topeka, Kansas.

Professor Jack Greenberg:

Plessy against Ferguson which was the decision that set up, or authorized, or validated segregation, was one that was based on a lot of social scientific principles with no social scientists. They said, "It's in the natural order of things that blacks and whites should be separate." We produced some evidence showing that's not so.

Leonard Williams, attorney, Delaware:

In *Brown*, we get the principle that separate but equal could never be fair. Mere separation equates inferiority.

Narrator:

The arguments for the five lawsuits began in the spring of 1952 at the United States Supreme Court. Spectators waited in line just for a chance to witness the proceedings.

Evelyn Fox Cunningham:

I could not imagine by any stretch that my hero was going to be standing before this awesome body making an appeal for kids to get together and go to school together, black and white kids, and I am not going to be there? No way! No way!

Narrator:

Each member of the NAACP legal team had to argue a case before the justices.

Judge Robert L. Carter:

I wasn't nervous the second day. The first day, I was scared to death.

Professor Jack Greenberg:

I just thought it was something that had to be done, was going to be done, we were going to win it, it was going to come out all right.

Narrator:

On May 17, 1954, after two years of arguments and deliberation, Chief Justice Earl Warren announced the unanimous ruling of the United States Supreme Court. He said, "We conclude that in the field of public education the doctrine of 'separate but equal' has no place." "Separate education facilities are inherently unequal."

Evelyn Fox Cunningham:

There was my hero, changing all of that, like that! He'd won. I'll never forget it.

“Clarendon County, South Carolina: *Briggs v. Elliott*”

Music

Celestine Parson Lloyd, plaintiff:

Summerton was a small, farming town and it was predominantly black. But white people basically ran the whole thing.

Nathaniel Briggs, son of Harry Briggs Sr.:

You kind of learned some of the rules of segregation. It wasn't written rules, to my knowledge, but they were the rules that black people followed.

Narrator:

Anti-black discrimination in Clarendon County forced African American children to walk to school regardless of the distance.

Lucy Pearson Witherspoon, niece of Levi Pearson:

It was like 9 to 10 miles that we walked one way to school.

Celestine Parson Lloyd:

And you would see two or three buses passing you on the way with the white children inside and they even would go as far as to jeer at us.

Lucy Pearson Witherspoon:

They would out the window down and spit at us.

Narrator:

Rev. Joseph A. De Laine, a local minister, became involved in the struggle for better conditions.

Lucy Pearson Witherspoon:

He knew firsthand what was going on. And he just decided that something needs to be done here.

Narrator:

In 1948, Rev. De Laine worked with Levi Pearson, a local farmer, to sue the school board for buses. The case was called *Pearson v. County Board of Education*.

Joseph A. De Laine Jr., son of Rev. J. A. De Laine

That case was filed and was ultimately thrown out of court because of a technicality as to where he lived.

Narrator:

Rev. De Laine and the Pearsons kept pushing. They convinced NAACP attorney, Thurgood Marshall, to develop a new lawsuit against the school board, this time for better schools. As they prepared to find additional plaintiffs, an unexpected opportunity helped build wide support for the case. The students at Scott's Branch School were having difficulties.

Joseph A. De Laine Jr.:

A levy placed on them for receipt of their transcripts with the threat that they would not graduate if they did not pay the levy.

Lucy Pearson Witherspoon:

You couldn't go to college without a transcript.

Narrator:

The president of the senior class, Reverdy Wells, suggested that a meeting be called to inform the parents of what was going on.

Joseph A. De Laine Jr.:

Word was passed around in the meeting, "If you want to join this effort to get a better school and willing to become a plaintiff, quietly go up to Mr. Harry Briggs' home after the meeting tonight and talk with Rev. De Laine."

Narrator:

107 plaintiffs signed the petition. Their case was called *Briggs v. Elliott* after Harry Briggs, whose name appeared first on the list. Thurgood Marshall led the team of NAACP lawyers and argued the case in front of Judge J. Waties Waring.

Joseph A. De Laine Jr.:

And his conclusion was, "You got separate but equal now and it's not working so why are you suing for it?" That's when the light hit Mr. Marshall.

Narrator:

Equalizing the schools was no longer enough. Marshall changed tactics and resubmitted *Briggs v. Elliott*. His revised argument demanded more radical change, school desegregation.

Joseph A. De Laine Jr.:

All types of retaliation began to occur.

Celestine Parson Lloyd:

People started to lose jobs and they started to lose everything that they had basically.

Nathaniel Briggs:

The experience of my father, he worked at a gas station in town. Well, they fired him from this gas station job because he didn't take his name off the petition.

Lucy Pearson Witherspoon:

I can remember times when I was so frightened that I really just couldn't sleep at night.

Narrator:

In 1951, Rev. De Laine's house was burned to the ground. Later, he fled the state after shooting back at white assailants who threatened his life. Despite years of economic pressure and intimidation the Summerton plaintiffs remained committed to the case. Their perseverance paid off when *Briggs v. Elliott* reached the US Supreme Court as part of *Brown v. Board of Education*. On May 17, 1954, the Court outlawed segregation in public schools.

Nathaniel Briggs:

I look back and I see these folks as being not civil rights people just human rights people. You know that is all that they were after. Just human rights, what is equally under the law. That is what I want for my children.

“Wilmington, Delaware: *Belton v. Gebhart* and *Bulah v. Gebhart*”

Music

Littleton P. Mitchell, NAACP president, Delaware State Conference of Branches (1961-1991):

Delaware was very, very, very segregated.

Leonard Williams, attorney, Delaware:

Not only did they practice segregation, they had enacted a lot of laws in Delaware that pretty much sponsored it and favored it. The public bathrooms were segregated, the water fountains were segregated, the public accommodations in terms of restaurants.

Narrator:

One man, Louis Redding, would dedicate his career to eliminating segregation and discrimination in the state.

Professor Jack Greenberg:

That was a marvelous man, Louis Redding. He was the only black lawyer in the state of Delaware for over twenty years.

Leonard Williams:

He had some students who came to him from Delaware State College who wanted to take courses that were not available there but were available at the University of Delaware and they couldn't get in. So he filed a lawsuit. *Parker v. University of Delaware*.

Professor Jack Greenberg:

I was sent down to bring a case for Louis Redding against the University of Delaware. You think of Delaware as a northern state. It had been a slaveholding state. The University of Delaware was segregated. And so, we won that case. We won the first case ever to integrate a college.

Narrator:

With the Parker decision in his pocket, Redding was prepared to challenge segregation wherever he could.

Leonard Williams:

He had experienced all these negative things as he came along. And here is a brilliant, articulate, Harvard-educated, Ivy Leaguer, coming back to his hometown, and he's

witnessing all of these atrocities in terms of the law and the way his people are treated. And he's not going to stand for that. He's not going to just sit there and let that happen.

Littleton P. Mitchell:

And he always said, "We have to be vigilant and look to find out where we can really eliminate prejudice and discrimination."

Narrator:

Louis Redding began to file lawsuits challenging discrimination at the lower school levels.

Leonard Williams:

Mrs. Bulah was an elderly lady and her child was being taken to a black school five or ten miles from her home and the bus came through to pick up the white kids and took them to school and her child stood there. So she came to see Mr. Redding about that.

Professor Jack Greenberg:

And Louis Redding said that, "I'll bring the case for you, but not get your kid on the bus but to integrate the schools."

Narrator:

Families from Claymont also complained to Mr. Redding. Their teenage children were tired of traveling to Howard High School in Wilmington when white students could attend a high school right in Claymont. With the assistance of Jack Greenberg, Louis Redding argued the two lawsuits, *Bulah v. Gebhart* and *Belton v. Gebhart*, in front of a state judge. Collins Seitz. Chancellor Seitz had previously ruled to desegregate the University of Delaware.

Leonard Williams:

And they fought us. The State took the position that it was okay to have separate but equal, so they didn't roll over.

Narrator:

In April 1952, Collins Seitz ruled in favor of the plaintiffs. He ordered the white high schools in Claymont and Hockessin to admit the African American students immediately.

Professor Jack Greenberg:

That was the only one of the cases that had been won in the lower courts. All the other cases were lost in the lower courts.

Narrator:

The State appealed the decision and Louis Redding and Jack Greenberg went on to defend their victory at the US Supreme Court as part of *Brown v. Board of Education*.

Leonard Williams:

And it's interesting, if you look at *Brown*, you will find quotations from Seitz's opinion as to the fact that segregation in and of itself is unequal. And it is that interesting concept and from a little state like Delaware, it says something about the strength of our legal process.

“Farmville, Virginia: *Davis v. County School Board of Prince Edward County*”

Music

Narrator:

In 1951, the students of Robert R. Moton High School in Farmville, Virginia, led by junior Barbara Johns, staged a walkout. They were protesting the inferior condition of their school.

Willie Shepperson, Moton High School, class of 1955:

On the day of the walkout, I was fourteen years old. I was coming into the front entrance of the school and Barbara passed me and said, “Everybody needs to go to the auditorium.”

Edwilda Allen Isaac, Moton High School class of 1955:

So the teachers were yelling saying, “Come back! Where are you going?”, “Sit down.” And they followed us in the auditorium.

Willie Shepperson:

But then Barbara took over. And she was a fireball. I mean she really laid it out there in no uncertain terms.

Edwilda Allen Isaac:

We were going to have a walkout and demonstrate to the school board that we were very serious.

Willie Shepperson:

They should give us a new school because we’re tired of being in these tarpaper shacks with the rain falling on us.

Narrator:

Segregation had forced them to attend overcrowded schools with makeshift buildings, outdated books, and few supplies.

Rev. J. Samuel Williams Jr., Moton High School class of 1955:

We had observed and made contrasts with this school to the white school over on First Avenue. We looked at their facilities. We knew what they had over there.

Edwilda Allen Isaac:

They had cafeterias, they had excellent libraries, they had gymnasiums. And we had nothing.

Willie Shepperson:

I think the tarpaper shacks any of us could have dealt with. But it was a culture. That culture being, it was an extension of what white people told us we were.

Rev. J. Samuel Williams Jr.:

You are inferior. You are lazy. You are loud. You are late. You are this, that, and the other.

Willie Shepperson:

Racism was so indoctrinated into both communities that it was an accepted thing. It was a normal thing.

Narrator:

The student walkout was an unprecedented challenge to race relations in Farmville. It provoked strong reactions.

Rev. J. Samuel Williams Jr.:

We were asked to call the strike off several times. But we did not.

Edwilda Allen Isaac:

We stayed out ten days. I remember Barbara and Carey thought, "I think we are in trouble. We might need some help."

Narrator:

Help came from Rev. L. Francis Griffin, a World War II veteran and pastor of the First Baptist Church in Farmville.

Edwilda Allen Isaac:

He was a powerful speaker. He was able to tell you that segregation is a moral thing. It is connected to religion. You can't say, "I am a Christian" and do these things to other people, you know.

Narrator:

With the help and support of Rev. Griffin, Barbara Johns contacted NAACP attorney Oliver Hill to request legal representation.

Edwilda Allen Isaac:

Oliver Hill, he tried to tell Barbie, "You know, we don't have any time to be bothered with Farmville. Farmville is too small. We are on our way to a bigger place to fight a cause."

Narrator:

Nevertheless, Hill agreed to take the case on the condition that the students fight for integration.

Willie Shepperson:

You had Oliver Hill. You had Spottswood Robinson. You had Reverend Griffin. Had it not been for people like this, it never would have happened because basically the folk in Prince Edward's County were afraid of the white folks, they were afraid of their jobs.

Edwilda Allen Isaac:

And it was really a scary time.

Willie Shepperson:

They had never seen anybody go up against white folks and win anything. You always lost.

Edwilda Allen Isaac:

People who always loved on farms, they were asked to move. Their stuff was thrown out.

Willie Shepperson:

Principal Boyd Jones. He was fired because they were so certain that he had something to do with the student rebellion.

Edwilda Allen Isaac:

Those who had bank loans were asked to pay them immediately.

Narrator:

In spite of the intimidation, the African American community persisted with its efforts. In 1952, attorneys Hill and Robinson argued the case known as *Davis v. County School Board of Prince Edward County* on behalf of the Farmville students. No one was surprised when the Court ruled against them. The NAACP appealed the *Davis* case to the US Supreme Court where it joined four other lawsuits and became part of *Brown v. Board of Education*. To avoid school integration, Prince Edward County closed its public schools for five years beginning in 1959. While public funds were diverted to allow white students to attend private school, African American students had to fend for themselves.

“Topeka, Kansas: *Brown v. Board of Education of Topeka*”

Music

Charles Scott Jr., son of Charles Scott Sr.:

Blacks migrated to Kansas in the hope of freedom and to escape the injustices of the South.

Cheryl Brown Henderson, daughter of Oliver Brown:

No other state was recruiting African Americans, specifically saying, “You can own land. You have freedom of association without that badge of segregation.”

Narrator.

Many African Americans settled in Topeka, a modest Midwestern city and capital of the state of Kansas.

Cheryl Brown Henderson:

When the influx started to increase, even open-minded, if you will, Kansans decided, “Well, you know, wait a minute.”

Charles Scott Jr.:

Kansas did not have “mandated segregation,” they had what is called “permissive segregation.”

Narrator.

Although not required, segregation was permitted by law in elementary schools in large cities. In Topeka, African American children from kindergarten through 8th grade had to attend one of four schools in the city.

Charles Scott Jr.:

Black children were required to get up at 6 o’clock in the morning to catch a bus to go clear across town, many had to walk across heavily trafficked streets.

Zelma Henderson, plaintiff:

My children had to go past one or two schools in order to get to McKinley on the west side.

Narrator.

In 1948, the local NAACP president, McKinley Burnett, started to petition the Topeka School Board to desegregate the schools.

Cheryl Brown Henderson:

McKinley Burnett took this challenge on alone initially.

Maurita Burnett Davis, daughter of McKinley Burnett:

People didn't seem to care, they were happy and go lucky. They didn't seem to think too much was wrong.

Charles Scott Jr.:

Even among the members of the NAACP, there were only just a few members who were advocating the cause of integration.

Narrator:

When the school board refused to grant Burnett's request, local attorneys Charles Scott Sr., John Scott, and Charles Bledsoe began to organize a legal challenge with the help of the NAACP Legal Defense Fund.

Cheryl Brown Henderson:

They recognized that if things were going to change, they had to do it.

Narrator:

Unlike other school desegregation lawsuits, the schools for African Americans in Topeka were in relatively good condition and provided excellent teachers. The lawyers looked for another way to prove the harmful effects of segregation.

Charles Scott Jr.:

They pursued a theory that segregation was psychologically detrimental to black children and that it impaired their ability and even their desire to learn.

Cheryl Brown Henderson:

Although public schools were the battle front, society was the target. the NAACP Legal Defense Fund recognized that if we succeed in this one step, people that understood the law would recognize that these other parts of Jim Crow would have to fall away.

Narrator:

McKinley Burnett and the lawyers scrambled to find plaintiffs.

Maurita Burnett Davis:

He had a hard time getting people to use their name.

Cheryl Brown Henderson:

I think there was a reluctance to really want to stand up because they recognized what was at stake. Fortunately for us, there were the few that didn't face those types of challenges.

Zelma Henderson:

I came from a locality in western Kansas where we had integration and when I got to Topeka I was quite surprised that Topeka was segregated.

Narrator:

Twelve women, mostly housewives, agreed to be plaintiffs. They were committed to their children's education and the least vulnerable to financial pressure.

Zelma Henderson:

I thought it was so unfair and I was ready to help correct the situation.

Narrator:

Oliver brown, the only male plaintiff, was a shop welder for the Santa Fe Railroad and an aspiring minister.

Cheryl Brown Henderson:

I think it was all about finding some way to be taken seriously. My father didn't want to be marginalized. My father simply stood up with the group, you know. He was willing to be part of the numbers to be counted.

Narrator:

Brown v. Board of Education of Topeka was filed on February 28, 1951.

Charles Scott Jr.:

The US District Court in Topeka found that segregation did have a psychologically detrimental impact upon black children. But they were bound by the precedent in *Plessy v. Ferguson* and were obliged to uphold segregation.

Cheryl Brown Henderson:

Judge Walter Huxman ruled the way he believed he should based on the laws on the books. But he knew, and I think that's why he wrote his opinion as he did, leaving the door open for the next level of judicial review.

Narrator:

After *Brown v. Board of Education* was collectively argued with four other lawsuits at the US Supreme Court, the justices unanimously overturned *Plessy v. Ferguson* and outlawed segregation in the public schools.

Cheryl Brown Henderson:

When the Court decided people were extremely joyful because even though they recognized the challenges ahead, they had something to be happy about.

“Washington, District of Columbia: *Bolling v. Sharpe*”

Music

Narrator:

By the 1940s, African Americans in Washington, D.C. lived in a community that was self-sufficient, proud, and not afraid to protest social injustice.

Del. Eleanor Holmes Norton, US House of Representatives:

By then the District was almost coming to be a majority black city.

Barbara Dodson Walker, teacher:

We had our own society. We had our own nightclubs, we had our own theaters.

Dr. Paul Cooke, teacher:

The Library of Congress served everybody. The Smithsonian Institution served everybody without respect to race.

Del. Eleanor Holmes Norton:

We knew we were well-trained and educated. And we thought something had to be wrong with white people who segregated us.

Narrator:

Limited educational resources hindered a growing population of African American students. They went to overcrowded schools in shifts and attended class in hallways.

Dr. Paul Cooke:

One track came in at 8 in the morning and stayed until 12 or 12:30. Another track came in at 12:30 and stayed until 4:30. That was really discriminatory and reduced the amount of education those children got.

Narrator:

In 1947, Gardner Bishop, a barber from U Street, channeled his outrage into an organized effort to fix the schools.

Judine Bishop Johnson, daughter of Gardner Bishop:

When he found out that we were attending school on a part-time basis, he became terribly upset. He decided he was going to do something about it.

Narrator:

Gardner Bishop created the Consolidated Parent Group. Its mission was to pressure the school board to improve school conditions.

Judine Bishop Johnson:

He was always in the forefront. He didn't send anybody else to do the work.

Narrator:

The Consolidated Parent Group successfully organized a boycott of several D.C. public schools. For weeks few students attended class.

Judine Bishop Johnson:

Nobody could believe that this loudmouth black man, this barber no less, had accomplished this.

Narrator:

When the boycott failed to produce significant results, Gardner Bishop contacted NAACP attorney Charles Hamilton Houston. They collaborated on lawsuits to try to equalize the schools.

Judine Bishop Johnson:

Mr. Houston just worked with Daddy for three years pulling all of this together before he became very, very ill. And I know when he died, my father cried. He really did because they had become very, very close friends.

Narrator:

Before he died, Houston instructed Bishop to get James Nabrit and George Hayes, two prominent civil rights attorneys in Washington D.C. to take over. They convinced Bishop to challenge segregation directly. The Consolidated Parent Group arranged for eleven African American students to try to enroll at the all-white Sousa Junior High School. When they were refused, Nabrit and Hayes sued the school board. The case was called *Bolling v. Sharpe*.

Del. Eleanor Holmes Norton:

Bolling v. Sharpe was one of the five cases that went before the Supreme Court, had to be argued separately because the District of Columbia comes under the 5th Amendment technically, and not the 14th Amendment, because we're not a state.

Narrator:

James Nabrit argued before the US Supreme Court that, "In the capital of the free world, there is no place for a segregated school system." The US Supreme Court announced its judgment on May 17, 1954.

Del. Eleanor Holmes Norton:

We instantly knew something momentous had happened because I was sitting in a high school classroom when the principal, Dr. Charles Lofton, rang the bell for the communications system and asked for all of us to listen.

Judine Bishop Johnson:

My father was at work. He called home. He called home to tell us the good, good news.

Narrator:

The Court ruled that segregation was unconstitutional. That decision set the precedent for dismantling all forms of segregation.

Del. Eleanor Holmes Norton:

It was a magnificent decision, not only because it paved the way for a whole set of laws and a whole set of actions in the society, but because young people like me somehow understood that it was time for a civil rights movement.